

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNARCO MATERIAL HANDLING, INC.,

Plaintiff,

- against -

KINGWAY INCA CLYMER HOLDINGS, INC.,

Defendant.
-----X

VICTOR MARRERO, United States District Judge.

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ELECTRONICALLY FILED
DOC #:
DATE FILED: 7-25-08

08 Civ. 2394 (VM)

CONDITIONAL
ORDER OF DISCONTINUANCE

Counsel for plaintiff, on behalf of the parties, having notified the Court, by letter dated July 24, 2008, a copy of which is attached, that the parties have reached an agreement in principle to settle this action without further litigation, it is hereby

ORDERED, that this action be conditionally discontinued without prejudice and without costs; provided, however, that within thirty (30) days of the date of this Order, the parties may submit to the Court their own Stipulation of Dismissal for the Court to So Order. Otherwise, within such time counsel for plaintiff may apply by letter for restoration of the action to the active calendar of this Court in the event by the deadline indicated the settlement is not consummated. Upon such notification, the defendant shall continue to be subject to the Court's jurisdiction, the Court shall promptly reinstate the action to its active docket and the parties shall be directed to appear before the Court, without the necessity of additional process, on a date within thirty days of the

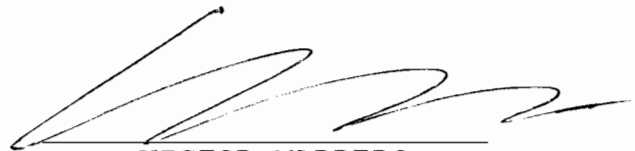
plaintiff's application for reinstatement, to schedule remaining pre-trial proceedings and/or dispositive motions, as appropriate. This Order shall be deemed a final discontinuance of the action with prejudice in the event plaintiff has not requested restoration of the case to the active calendar within such period of time.

The briefing schedule with regard to plaintiff's motion to confirm the arbitration award herein is stayed but shall be reinstated so as to require the filing of plaintiff's reply brief by August 15, 2008 in the event plaintiff notifies the Court that the parties' settlement was not effectuated and that a ruling on such motion is necessary to resume pretrial proceedings herein.

The Clerk of Court is directed to withdraw all pending motions without prejudice and close this case.

SO ORDERED.

Dated: NEW YORK, NEW YORK
25 July 2008

A handwritten signature in black ink, appearing to read 'Victor Marrero', is written over a horizontal line.

VICTOR MARRERO
U.S.D.J.

CADWALADER

Cadwalader, Wickersham & Taft LLP
New York London Charlotte Washington Beijing

One World Financial Center, New York, NY 10281
Tel 212 504 6000 Fax 212 504 6666
www.cadwalader.com

July 24, 2008

BY HAND

The Honorable Victor Marrero
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street, Room 660
New York, NY 10007

Re: *Unarco Material Handling, Inc. v. Kingway Inca Clymer Holdings, Inc., et al.*
08 Civ. 2394 (VM)

Dear Judge Marrero,

We represent Plaintiff in the above-referenced action. Plaintiff's motion to confirm a final arbitration award is pending before the Court and, according to the briefing schedule set by the Court, Plaintiff's reply brief in connection with that motion is due tomorrow. However, the parties have reached a settlement in principle to consensually resolve the entire action and are currently working to finalize the documents and details. We expect to execute and file stipulations with the Court dismissing all claims and counterclaims in this action shortly.

Accordingly, the parties jointly request that the current briefing schedule be stayed for three weeks such that, if the settlement is not consummated, Plaintiff's reply brief would be due on August 15, 2008.

There has been one prior request for an extension or adjournment in this action. On April 22, 2008, Defendants requested and were granted a one week adjournment of the case management conference.

Respectfully Submitted,



Joshua R. Weiss

cc: Scott M. Berman, Esq.